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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/995,789      | 11/29/2001  | Taiichiroh Meguro    | 049400-5021         | 9139             |

9629 7590 10/22/2003

MORGAN LEWIS & BOCKIUS LLP  
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WASHINGTON, DC 20004

EXAMINER

FOREMAN, JONATHAN M

ART UNIT PAPER NUMBER

3736

DATE MAILED: 10/22/2003

*8*

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/995,789

Applicant(s)

MEGURO ET AL.

Examiner

Jonathan ML Foreman

Art Unit

3736

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 10 July 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Drawings*

1. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 7/10/2003 have been approved. A proper drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The correction to the drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3 –5, 7 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S.

Patent No. 5,454,788 to Walker et al.

In reference to claims , 3 –5, 7 and 8, Walker et al. discloses applicant's claimed invention (Figure 5A) including a guidewire having a front catheter engagement portion (46) formed from a mirror-finish barrel shaped portion (Col. 9, lines 56 – 61), and a balloon catheter being inserted into a blood vessel concurrently with the guide wire . The mirror-finished shape of the front catheter engagement portion is cut at its outer surface (Figure 5A). A provisionally connecting member is provided at a front open end of the balloon catheter to connect the catheter to the engagement portion (Col. 9, lines 14 – 15). The provisionally connecting member is considered by the examiner to have a rolled end in that it is a tube. The balloon catheter (Col. 8, lines 44 – 50) and the front catheter engagement portion (Col. 9, lines 41 – 47) are formed by a common synthetic resin selected

Art Unit: 3736

from the group selected from polyamide, polyvinyl chloride, polytetrafluoroethylene and polyethylene.

*Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 9 – 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,454,788 to Walker et al. in view of U.S. Patent No. 5,409,470 to McIntyre et al.

6. In reference to claims 9 – 12, Walker et al. discloses a guidewire having a front catheter engagement portion having an ellipsoidal shape (Figure 32) connected to a front end of a balloon catheter (18) so a catheter can be inserted into a blood vessel with the guide wire. The front catheter engagement portion has line elements (242). A provisionally connecting member is provided at a front open end of the balloon catheter to connect the catheter to the engagement portion (Col. 9, lines 14 – 15). The provisionally connecting member is considered by the examiner to have a rolled end in that it is a tube. Walker et al. fails to disclose the engagement portion being formed of a spring. McIntyre et al. teaches using a spring (24) having line elements to connect with a balloon catheter (Figure 3) for advancement into a blood vessel. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the engagement portion as disclosed by Walker et al. to be a spring as taught by McIntyre et al. in order increase the flexibility of the distal end of the arrangement.

Art Unit: 3736

*Conclusion*

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 5,766,192 to Zacca and U.S. Patent No. 6,416,526 to Wyzgala et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan ML Foreman whose telephone number is (703)-305-5390. The examiner can normally be reached on Monday - Friday 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max F Hindenburg can be reached on (703)308-3130. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-308-0758 for regular communications and (703)-308-0758 for After Final communications.

Art Unit: 3736

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-0858.



JMLF

October 20, 2003



MAX F. HINDENBURG  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700